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is childish in kind, or was he the man to waste himself, like Plato, upon music, geometry, mathematics and astronomy, which not only start from false assumptions and so cannot be true, but if they were true would not aid us one whit towards living a more agreeable, that is a better life; was he, I ask, the man to pursue those arts and thrust behind him the art of living, an art of such moment, so laborious too, and correspondingly rich in fruit?

How could the man who translated so well in 1883 write such an unsatisfactory commentary and punctuate so badly in his edition of the *Pro Archia* in 1891?

A study of the passages quoted in this paper will show how thoroughly the Romans—Cicero at least—were masters of this highly effective bit of rhetoric. As evidences of that mastery we may recapitulate here the use of *non* or *nonne* in the second member, in varying ways, the setting of at least three sentences of this type side by side in *Pro Balbo* 54 (with the separation of two of them by *anne*), the use of *non*. . . *sed* in both members, in *Tusc.* 5. 104, the varying tenses in different examples, and, finally, the use of even the conditional subjunctive in *De Finitus* 1.72 (with the resumption there of the whole first member through *ergo*).

The passage cited above from the *De Finitus*, ending as it does with a resumptive *ergo*-clause, which gathers up and repeats the contents of the *an*-clause, makes one think of such a passage as *Cicero Tusc.* 1.31:

*Ergo arbores seret diligens agricola, quarum adspiciet bacam ipse numquam, vir magnus leges, instituta, rem publicam non seret?*

Is, then, the thrifty husbandman to plant trees whose fruit he will never himself see, (and) the great man not to plant laws, institutions, the common-wealth?

Here for *ergo* we might substitute *an*. It is worth while to note that Meissner, who has a fine note on this idiom, puts a colon after *numquam*. C. K.

### LEGISLATION AGAINST POLITICAL CLUBS DURING THE REPUBLIC<sup>1</sup>

The special object of the *Lex Licinia De Sodaliciis* was to put an end to the existence of political clubs. Unions of citizens for various purposes had been common almost from the foundation of the city. Trades-

unions, composed of the workmen in the different trades, were recognized in the time of the monarchy, and no effort was ever made to dissolve them, until they began to exert a political influence. Such unions were called *collegia*, and we hear of seven of them before the establishment of the Republic, which were under the protection of the State, if indeed the State did not take the initiative, as Plutarch intimates, in creating them. They included in their membership the workers in all the principal occupations in the city<sup>2</sup>. Persons holding the same office, as the pontiffs, the augurs, and the tribunes, formed *collegia*, and these also existed without criticism<sup>3</sup>. But in the last century of the Republic many of the *collegia* began to use their influence in a political way, and in the year 64 B. C. those that were thought to be inimical to the public welfare were all abolished. They were restored, however, by a measure proposed by Clodius, during his tribuneship in the year 58 B. C.<sup>4</sup>, with disastrous results to the regular working of the government.

Unions of a second kind, composed of the worshippers of some divinity, were called *sodalitates*. We hear, for example, that a *sodalitas* of *Mercuriales* was created in 387 B. C., and that in 204, at the inauguration of the worship of the *Mater Magna*, a special *sodalitas* of those who superintended her worship was formed<sup>5</sup>. Gaius asserts that *sodalitates* existed at the time of the XII Tables<sup>6</sup>, and some Roman scholars carried their foundation back as far as the age of Romulus<sup>7</sup>. With the introduction of new divinities their number constantly increased, and they were found in every part of the Empire. Ostensibly their chief function was to make offerings to a divinity at a particular temple, but perhaps the activity which created the most far-reaching consequences consisted in their holding banquets which fostered a close friendship among the members. Since their duties centered in a special shrine rather than in the worship of a divinity generally, they were sometimes called *collegia templorum*, but never *collegia deorum*<sup>8</sup>. All of these created a much stronger bond among their members than the ordinary *collegia* did. In many respects they are comparable to the lodges of the present day. They had a kind of insurance, extending to the education of the children of deceased *sodales*. In a public way they were of service to their members, for a *sodalis* would not take legal action against a member of his *sodalitas*, but would aid him in his legal difficulties. This close relationship was guarded against in certain prohibitory clauses in the legislation of C. Gracchus. In one of the laws passed during his tribunate it was

<sup>1</sup>Bibliography:

Mommsen, *De Collegiis et Sodaliciis Romanorum*. Kiel, 1843.  
Cohn, *Zum Römischen Vereinswesen*. Berlin, 1873.  
Liebenam, *Zur Geschichte und Organisation des Römischen Vereinswesen*. Leipzig, 1890.  
Waltzing, *Étude historique sur les corporations professionnelles chez les Romains*. Louvain, 1895.  
Weismann, *De Divisoribus et Sequestribus, Ambitus apud Romanos Instrumentis*. Heidelberg, 1831.  
Pernice, *M. Antistius Labeo*. Halle, 1873.  
Labatut, *La corruption électorale chez les Romains*. Paris, 1876.  
De Marchi, *Il culto privato di Roma antica*. Milano, 1903.  
Bloch, *Le Praefectus Fabrum*. Louvain, 1905.  
Rein, *Criminalrecht*, 714-719.  
Zumpt, *Criminalrecht*, 11.2.367-404.  
Zumpt, *Criminalprocess*, 545-547.  
Lange, *Alterthümer*, 1.716 ff.; 3.340.  
Mommsen, *Staatsrecht*, 3.1181, etc.  
Mommsen, *Strafrecht*, 872 ff.  
Marquardt, *Staatsverwaltung*, 3.134 ff.; 204.  
Greenidge, *Legal Procedure*, 448 ff.  
Strachan-Davidson, *Criminal Law*, 2.95-111.

<sup>2</sup>Plutarch, *Numa* 17.

<sup>3</sup>Livy 1.20, 2.27; Pliny, N. H. 18.2.

<sup>4</sup>Cicero, *Sest.* 34.

<sup>5</sup>C. I. L. 1.1, page 206; Cicero, *Cato Maior* 45 (Cato is speaking): *Sodalitates autem me quaestore constitutae sunt, sacris Idaeis Magnae Matris acceptis. Epulabar igitur cum sodalibus*; Gellius 2.24.2: *Principes civitatis, qui ludis Megalensibus antiquo ritu mutarent, id est mutua inter se convivia agerent*; C. I. L. 6.494: *Matri deum et navi Salviae Q. Nunnii Telephi mag[ister] collegii cultor[um] eius*.

<sup>6</sup>Digest 47.22.4.

<sup>7</sup>Tuditanus ap. Macrobius 1.16.32.

<sup>8</sup>Digest 32.1.38.6.

ordered that in cases of extortion no man could act as counsel or jurymen provided the defendant in the case were a member of his *sodalitas* or *collegium*<sup>9</sup>. In the last century of the Republic they used their influence as organizations in giving assistance to members in their candidacy for office<sup>10</sup>. This became so pronounced that many of them were abolished in 64, and others in 56 B. C.

But the Romans drew no sharp distinction between *collegia* and *sodalitates*. Thus Gaius says that *sodales* are those who belong to the same *collegium*<sup>11</sup>, and even unions of those engaged in a particular occupation were sometimes called *sodalitates*<sup>12</sup>. Probably the nearest distinction to which the Romans adhered, and they were not consistent even in this, was that the *sodalitates* had for their object the cultivation of the worship of a particular divinity, while the word *collegium* was a broader word, indicating no one object as against all others, but a union lasting for the period of the life of its members<sup>13</sup>. A *sodalitas* might be of short duration, but in general it was self-perpetuating, and lasted as long as the worship of a divinity lasted.

A third form of union, and this is the one which became especially pernicious, was the temporary club formed for the express purpose of accomplishing some political end, or ends. Livy mentions one of these that was created in the year 314 B. C. to exert an influence on the elections of that year<sup>14</sup>. They were usually only temporary organizations, having one definite object, and they probably disbanded as soon as that object was attained. They were a special kind of *collegium*, whose activity was almost, if not quite, confined to politics. Toward the end of the Republican period they became extremely numerous, formed as they were to meet some assumed emergency, such as a particularly close election, or some threatened legislation. Quintus Cicero says that his brother belonged to several<sup>15</sup>, and Marcus Cicero himself speaks of groups, which he calls *factiones*, each created for one object alone<sup>16</sup>. Dio Cassius calls the first triumvirate, composed of Caesar, Pompey and Crassus, a union of this kind<sup>17</sup>. The more influential and somewhat permanent of such political unions or clubs were put out of existence by the severity of Sulla's constitution. But that condition did not last long, for very shortly thereafter we hear of corruption, caused by these organizations, more open and thorough-going than before. The *collegia* of the more eminent men, such as the priestly organizations, and the *sodalitates*,

gave systematic assistance to their members in winning elections. But even more corrupting than that was the readiness of the unions of artisans to sell their votes as organizations, and to cause violence in the conduct of elections. At the same time numerous organizations were created solely for the purpose of influencing public affairs, whether in elections or in legislation. These frequently took the name of *collegia* in order to conceal their real intentions<sup>18</sup>. These, Asconius says, received no public authorization, and were contrary to the welfare of the state<sup>19</sup>. It is doubtful whether there was any power in the Republic that could have checked their activity, or controlled their formation, for it is exceedingly probable that the majority of candidates for office endeavored regularly to increase their political influence, or win elections, by forming organizations, or illegally approaching those already formed. So long as officials were ready to form clubs, and the voters were ready to sell their votes to them, legislation against the clubs must of necessity be useless.

The recognized and long established *collegia* and *sodalitates* were placed in the category of juristic persons, at least to the extent that they could hold property and make contracts, provided they kept within the law as it applied to private citizens<sup>20</sup>. But the political clubs neither possessed, nor desired to possess, such privileges, for their wish was to conceal their influence, and even their existence. They commonly avoided the name of *collegia*, but were sometimes called *sodalitates*, or *factiones*, or still more frequently *sodalicia*<sup>21</sup>. It is a difficult question whether the names thus used applied to the common people, implying that they joined organizations, or was restricted to those men in higher positions who banded together to create organizations. The words are often used to denote only the men in higher positions, and apparently only the officers could be prosecuted for illegal acts, after there was legislation on the subject; so it seems that they alone were felt by the Romans to compose the temporary organizations, and there is no indication that the people who allowed themselves to be used in this way were regarded as guilty in any respect.

Another question which has been much debated is whether the various unions, *collegia* and *sodalitates*, required authorization or permission by the State in order that their existence might be legal. If the State

<sup>9</sup>The Lex Acilia, v. 10, declared that one could not be a patronus or iudex qui eiei (i. e. reo) sobrinus siet propiusve eum cognatione attigat queive eiei sodalis siet queive in eodem collegio siet.

<sup>10</sup>Cicero, Verr. 2.1.94; Mier. 56; De Orat. 2.200.

<sup>11</sup>Digest 47.22.4: *Sodales sunt, qui eiusdem collegii sunt, quam Graeci ἑταιρείαν vocant.*

<sup>12</sup>C. I. L. 6.9136 *sodales aerarii*; 9.5450 *sodalicium fullonum*. Compare Orelli, 4098, 4103.

<sup>13</sup>Marquardt, 3.137; Mommsen, Coll. 5; Cicero, Brut. 166; Pro Sull. 7; Lex Acil. C. I. L. 1.198, vv. 9-10.

<sup>14</sup>9.26.

<sup>15</sup>De Pet. Cons. 5.19. <sup>16</sup>Ad Quintum Fratrem 3.1.15.

<sup>17</sup>37.57: *συμφορησάντων δὲ ἐκείνων καὶ τὰ ἑταιρικά σφῶν* (compare 38.13) *ὡμολόγησαν καὶ ἐποιοῦν καὶ οὗτοι μετὰ ἀδείας ὅσα ἤθελον, ἡγεμόσιν αὐτοῖς χρώμενοι.*

<sup>18</sup>Suetonius, Aug. 32: *plurimae factiones titulo collegii novi ad nullius non facinoris societatem coibant.* Compare Cicero, In Cornel. 66; Asconius in Orat. in Cornel. 67; Waltzing, 1.48.

<sup>19</sup>Asconius in Cornel. p. 75 (speaking of conditions in the year 65): *frequentes tum etiam coetus factiosorum hominum sine publica auctoritate malo publico fiebant.*

<sup>20</sup>Gaius, Digest 47.22.4: *Sodalibus potestatem facit lex (XII tabulae) pactionem quam velint sibi ferre, dum ne quid ex publica lege corrumpant*; Digest 38.2.14: *ius publicum pactis privatorum mutari non posse.*

<sup>21</sup>De Pet. Cons. 19; Cicero, Ad Q. Fr. 2.3.5; Planc. 36, 47; Frag. in Vat.: *audacissimus de factione (factio = first triumvirate)*; Marcian, Digest 47.22.1 pr.: *collegia sodalicia*. From this expression of Marcian it is clear that the word *sodalicia* was an adjective, and signifies something that encouraged the close relationship of the *sodalitates*. But the combination used by Marcian does not occur in classical Latin.

demanded such authorization, then all organizations that did not seek and obtain it would be illegal from the outset. Or, if that was the case, it might be truer to say that the unrecognized organizations could not expect support from the State in the event of their wishing to enforce contracts, or legally take possession of property. It is thought, on the authority of Plutarch, that Numa was responsible for the creation of the first organizations of artisans. They seem to have been under the protection of the State during the whole period of the kings. It is said that Tarquinius Superbus forbade religious associations both in the city and in the country districts, on account of their attempted interference in politics, but there is nothing to show that he in any way endeavored to restrict either the formation or the continued existence of the collegia of artisans. Nor is there proof of the enactment of any law during the Republican period restricting the existence or activity of associations, until the last years before the civil wars. Two laws were cited by Porcius Latro as bearing on the subject, but they cannot be considered relevant to it. He cites the XII Tables, to the effect that meetings by night were forbidden, and the Gabinian Law, that no secret gatherings should be held in the city<sup>22</sup>. Nor does the law cited by Gaius from the XII Tables indicate that there was any necessity for authorization. The view that there was no such necessity has found almost universal acceptance<sup>23</sup>, but it should be pointed out that there is some slight indication of necessity in the speech of Postumius, consul in 186 B. C., on the occasion of the suppression of the Bacchanals<sup>24</sup>. But that evidence is not sufficient to warrant such an assumption, for Postumius was not speaking of the meetings of such organizations as these. It seems clear, therefore, that any club could be formed without seeking State recognition, nor was its existence illegal, until made so by positive enactment on the subject.

The first restrictive enactment was a *senatus consultum* passed in 64 B. C. This bill is mentioned explicitly twice by Asconius. In one passage he speaks of the rise of factions about the time when Cicero delivered his speech for Cornelius, in the year 65, saying that afterward the unions were abolished, except a few collegia, such as those of artisans, which were felt to be useful to the State<sup>25</sup>. In the other passage he adds that the *Ludi Compitalicii* were abolished at the same time. This took place in the consulship of L. Iulius Caesar and C. Marcius Figulus. But the collegia were

restored by a law of Clodius at the end of 59 B. C.<sup>26</sup>. Here a difficulty arises, for Asconius says that the collegia were restored by Clodius nine years after their abolition by the Senate. If this is true, the enactment of the Senate must be dated in 68 B. C., and the names of the consuls must be changed to L. Caecilius Metellus and Q. Marcius Rex in the note of Asconius<sup>27</sup>, as well as in the text of Cicero<sup>28</sup>. But that would conflict with the statement of Asconius that the collegia were springing into great prominence in the year 65, which would be only three years after the enactment for their suppression, so that it would be much better to change *novem* to *quinque* in the text of Asconius than to make the greater change in the names of the consuls, and at the same time to convict Asconius of a serious contradiction in his two statements.

It is not easy to decide upon the extent to which the Senate wished its measure to apply to the various organizations. Asconius says that the *Ludi Compitalicii* were abolished. This was clearly no part of an enactment directed against collegia explicitly and by name, but it implies that these games had been used by ambitious politicians as an occasion for canvassing for votes, or seeking to extend their influence. They may also have given an opportunity for violence in the streets. For these reasons the Senate would feel it necessary to abolish them<sup>29</sup>. But the language of Asconius indicates rather definitely that all collegia, with a very few exceptions, were abolished. In order to understand this it is necessary to endeavor to find an acceptable definition for the word *collegium*, and that is difficult, for the word does not seem to have been very clearly defined by the Romans themselves at this time. Asconius says that many organizations had arisen 'without public authorization', but evidently he is using an expression applicable to his own day rather than to the Republican period, for in the Imperial times it was necessary to secure authorization in order to render the existence of the organizations legal<sup>30</sup>. Upon the basis of this statement, Dirksen claims that collegia in the statement of Asconius means *collegia illicita*, but that cannot possibly be correct unless we should assume that authorization was necessary during the Republic. Zumpt is of the opinion that the word was intended to include only political clubs, but that is much too narrow, for it implies that it must be proved that a club, established ostensibly for other purposes, had participated unduly

<sup>22</sup>Decl. in Cat. 19: *primum XII tab. cautum esse cognoscimus, ne qui in urbe coetus nocturnos agitare, deinde lege Gabinia promulgatum, qui coitiones ullas clandestinas in urbe conflaverint, more maiorum capitali supplicio multetur.*

<sup>23</sup>E. g. by Mommsen, Coll. 36; Liebenam, 17; Waltzing, 1.79; etc.

<sup>24</sup>Livy 39.15: *Maiores vestri ne vos quidem, nisi cum aut vexillo in arce posito comitiorum causa exercitus eductus esset, . . . forte temere coire voluerunt; et ubicunque multitudo esset, ibi et legitimum rectorem multitudinis censebant debere esse.* Cohn, 35, accepts this as sufficient evidence.

<sup>25</sup>Asconius in Cornel. p. 75: *postea collegia senatus consulto et pluribus legibus sunt sublata praeter pauca atque quae utilitas civitatis desiderasset quasi ut fabrorum fictorumque (Stangl reads *lidorumque*).*

<sup>26</sup>Asconius in Pison. 6-7: *L. Iulio C. Marcio consulibus, quos et ipse Cicero supra memoravit, senatus consulto collegia sublata sunt quae adversus rem publicam videbantur esse . . . Solebant autem magistri collegiorum ludos facere, sicut magistri vicorum faciebant, Compitalicios praetextati, qui ludi sublatis collegiis discussi sunt. Post novem deinde annos quam sublatis erant P. Clodius tribunus plebis lege lata restituit collegia.* Compare Dio Cassius, 38.13.

<sup>27</sup>This is done by Cohn, 40, 51-55; Pernice, 301; and Gaudenzi, *Sui collegi degli artigiani in Roma* (Archivio Giuridico, 1884, 37-38).

<sup>28</sup>In Pis. 8.

<sup>29</sup>Waltzing, 1.93; Mommsen, Staatsr., 3.1181, Ann. 1; Willems, Sénat, 2.115, nn. 1, 4, 116, 326.

<sup>30</sup>Ulpian in Digest 47.22.2: *Quisquis illicitum collegium usurpaverit, ea poena tenetur, qua tenentur, qui hominibus armatis loca publica vel templa occupasse iudicati sunt.*

in political affairs, before its abolition could legally be effected. But it is impossible to believe that the Senate undertook such a stupendous task as the investigation of the conditions existing in each organization. Had it done so, we should have much information in ancient writers on a matter of so great importance. A third explanation, offered by Cohn, is that the word *collegium* means a legal club, formed for religious purposes, and that the *collegia* abolished at this time were those that had previously received authorization. But this also becomes impossible in view of the fact that no authorization was required for any of them. On the whole, it seems best to adopt the broadest definition of the word, and to hold with Waltzing that the associations suppressed by the Senate all bore the name of *collegia*, that many of them were old, that all were animated by factional tendencies, that they had many different forms, but that it was not intended to include the *collegia* of the priests or of the *Capitolini*, or certain associations of artisans. This definition of the word covers *sodalitates* and the political clubs, which masqueraded under the more dignified title of *collegia*, although the Romans would not normally expect to give that name to these temporary organizations. This is the conclusion reached also by Liebenam.

The senatorial decree was probably obeyed for four or five years; at any rate nothing is said about the associations, either favorable or unfavorable, until the year 59. In this year Piso was elected consul for 58, and granted permission for the celebration of the *Ludi Compitalicii* on January 1, 58<sup>31</sup>. He was clearly under the influence of Clodius and other demagogues in giving his consent to this violation of the law. One of the first things done by Clodius after his assumption of the tribuneship on December 10, 58, was to legalize the existence of clubs, by carrying a measure recognizing those already formed, and permitting the formation of many new ones. Indeed he seems to have participated actively in creating them, and especially the *collegia compitalicia*, or neighborhood clubs<sup>32</sup>. Asconius tells us that immediately there arose much greater political activity among the lowest classes<sup>33</sup>. The *sodalicia* became more numerous than ever before, and were a serious menace to the orderly conduct of public business<sup>34</sup>. It is a curious fact that nothing further is said of the *sodalicia* during the next two years. It is scarcely possible that they were inactive, but they may have been particularly on guard against the crisis which everybody foresaw must soon come. The later references to them all relate to their activity during the year of the tribuneship of Clodius. Nevertheless they were probably active as usual in these years, but by accident we do not happen to hear of them. This alone will explain the fact that the

Senate found it necessary in 56 to pass a resolution restrictive in its nature. Clodius had permitted the existence of all *collegia*; the Senate prohibited those whose members were enrolled into *decuries*, that is to say, the Senate took the point of view that these unions were a menace in proportion to their degree of organization. Cicero complains that Clodius enrolled slaves into *sodalitates*<sup>35</sup>; that was probably forbidden by the decree of the Senate, or at least unions must have been prohibited which were composed of a mixture of slaves and freemen.

(To be continued)

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## REVIEWS

Introduction to Latin. By John Copeland Kirtland and George Benjamin Rogers. New York: The Macmillan Company (1914). Pp. xvi + 261. \$.85.

This book, like nearly all contemporaneous beginners' books, is a modification of the old 'grammatical method', first, in that the amount of grammatical material to be learned is greatly reduced, and, secondly, in the way in which this material is administered, namely, in small 'doses' and with graded exercises in reading and writing Latin as an accompaniment of each dose. The authors are more radical in their treatment of syntax, which is taught not by rules, but only in the form of explanations *following* the Latin-English exercises, because the authors believe that "syntax can be firmly grasped only through reading". However, Rules of Syntax are given in the back of the book for those who wish them.

One might expect that the same order would be followed in presenting the facts of grammar, and for the same reason. On the contrary paradigms are given for the most part only in the *Conspectus of Inflections* at the back of the book, because the authors believe that a presentation in detached groups "separates forms that properly go together, and make less effective use of the principle of association". Their practice, therefore, is to refer the pupil to this *Conspectus* for any set of forms which are to be learned and used in a given lesson. Some slight modification of this plan, however, evidently seemed necessary, for in the first lesson there is given the present indicative active of *amo* with English meaning, which, with eight verbs of the same conjugation given in the lesson vocabulary, the pupils are asked to learn to inflect, before they come to the Latin exercises consisting of isolated verb forms and a few unconnected sentences. In this and the next lesson no declensions are given and only the nominatives (singular and plural) of several first declension nouns are used. The first declension model *sagitta*, with meanings, is given in complete form in Lesson III. The *use* of the genitive is first found in Lesson VI, that of the dative in VII. Again, the

<sup>31</sup>Cicero, In Pis. 8. <sup>32</sup>Dio Cassius, 38.13.

<sup>33</sup>Asconius in Pison, 8.

<sup>34</sup>Cicero, Sest. 34, 55; De Domo 13, 54; Pis. 11, 23; Post Red. in Sen. 33.

<sup>35</sup>Post Red. in Sen. 33: *servos simulatione collegiorum nominatim esse conscriptos*.